

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>10/27/2016</u>
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 ADRIAN SANCHEZ, MARCOS FERNANDEZ, :
 NICOLAS ARMANDO, BALDOMERO PEREZ, :
 and ALEJANDRA GARCIA, on behalf of :
 themselves, FLSA Collective Plaintiffs, and Class :
 Members, :

16-CV-3862 (VEC)

Plaintiff, :

ORDER

-against- :

BURGERS & CUPCAKES LLC, d/b/a :
 BURGERS & CUPCAKES, MITCHEL :
 LONDON INC., d/b/a MITCHEL LONDON :
 FOODS, MITCHEL LONDON, and CARMELA :
 LONDON, :

Defendants. :
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VALERIE CAPRONI, United States District Judge:


WHEREAS on October 19, 2016, Plaintiffs accepted Defendants' offer of judgment pursuant to Rule 68(a) of the Federal Rules of Civil Procedure (which offer was made on an "all or nothing basis");

It is HEREBY ORDERED that: In light of the concerns raised by the Second Circuit in *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 205-06 (2d Cir. 2015) regarding the need to ensure that plaintiffs in Fair Labor Standards Act (FLSA) cases receive fair settlements in exchange for compromising wage and hour claims and the concerns raised by Chief Judge McMahon regarding application of Rule 68(a) in FLSA cases, *see Baba v. Beverly Hills Cemetery Corp.*, No. 15-cv-5191, 2016 WL 2903597, at *1 (May 9, 2016), the Court invites the Department of Labor to notify the Court on or before **November 10, 2016**, if it wishes to be heard on whether Rule 68(a) can be used to terminate an FLSA case without any fairness determination by either the court or the Department of Labor.

The Clerk of Court is respectfully requested to provide a copy of this Order to the office of the United States Attorney for the Southern District of New York, attention of the Chief of the Civil Division, and note delivery on the Docket.

SO ORDERED.

Date: October 27, 2016
New York, New York


VALERIE CAPRONI
United States District Judge